

DELEGATED APPLICATION REPORT

Ward: Battle

App Ref: PL/24/1449 Lawful development: Existing use

Address: 8 Curzon Street, Reading, RG30 1DB

Proposal: Certificate of Lawfulness for Existing use as 2 flats

Applicant: Richard Griffiths & Co

Received date: 30/10/2024

Target Decision date: 07/02/2025 (EOT)

Case Officer: Marcelina Rejwerska

1. SITE DESCRIPTION

The application site comprises a mid-terrace two storey dwelling on the north side of Curzon Street. The surrounding area is residential. The site is not within an Article 4 Direction area.



The application site as seen from the street. Image submitted by agent.

2. PROPOSAL AND SUPPORTING INFORMATION

The application seeks to demonstrate the use of 8 Curzon Street as two self-contained flats (C3 use class) for more than 10 years.

3. RELEVANT PLANNING HISTORY

None.

4. LEGAL AND PLANNING POLICY CONTEXT

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation,

or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and is so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate.

However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it.

The certificate is not planning permission. The planning merits of use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

The NPPG states that 'The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use (section 191 of the Town and Country Planning Act 1990), if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability'.

Equality Act 2010:

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

5. CONSULTATIONS

RBC Council Tax - We have this property banded as two separate dwellings, ground & 1st floor flats, both flats have been banded since at least 01.04.1995. Both flats have been separately let out to tenants and occupied since the date of banding.

RBC Electoral Registration - Please see below the number of electors registered at Flat 1 and Flat 2, 8 Curzon Street.

	Flat 1, 8 Curzon Street	Flat 2, 8 Curzon Street
2025	1	0
2024	1	0
2023	1	0
2022	1	0
2021	1	1
2020	1	1
2019	1	1
2018	1	1
2017	1	0
2016	1	0

RBC Planning Enforcement – We have no record.

RBC Legal Services – Although, limited evidence has been submitted, there is no contradictory evidence.

6. SUBMITTED EVIDENCE

The applicant has provided the following evidence to demonstrate the use of 8 Curzon Street as two self-contained flats:

Title No. BK113404 Plan
Title No. BK113404 Lease
Title No. Bk113404 Property Register
Statement of Truth signed by Mr C H Litten
Floor Plan
RBC Council Tax bill, dated 19 June 2023
Right of Way Easement
Assured Shorthold Tenancy Agreement for Top Floor Flat, dated 4 March 2022

7. ASSESSMENT

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the use of 8 Curzon Street as two self-contained flats (C3 use class) began more than 10 years before the date of this application on 29th November 2024. The application form states that the use began on 18th March 1974.

With regards to internal consultee comments, the Council Tax records show that both flats have been individually banded since at least 1995 and have been separately let out and occupied since the date of banding. This, therefore, supports the applicant's claim. Similarly, the Electoral Registration records show that both flats are registered as separate residences with electors registered at each address separately.

The Council hold no records of planning enforcement on the site.

Turning to the evidence, submitted by the applicant to support the claim made within this application, the PPG makes the position clear on how the evidence submitted is to be considered:

"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability"

The applicant has submitted various evidence to demonstrate continuous occupation of the two flats, including a statement of truth from the landowner, a land registry lease and tenancy agreement for the current tenant of the top floor flat. The submitted evidence is limited, however, the agent has clarified that the tenant of the ground floor flat has occupied the residence since its subdivision, which is evidenced in the land registry lease, and the records for the top floor flat could not be obtained due to the change in estate agents who managed the tenancies. Despite this, the Council hold information which supports the applicant's claim and no contradictory information and, therefore, on the balance of probabilities it is considered that the certificate should be granted.

RBC Legal Services agree that despite the limited evidence, the Council hold no contradictory evidence and consider that the certificate can be granted.

8. RECOMMENDATION

The applicant has provided evidence or other information that satisfies the Local Planning Authority that the use of 8 Curzon Street as two self-contained flats (use class C3) began more than 10 years ago and there is no evidence to suggest that this use was changed or lost. The Council holds supporting information for the applicant's claim. It follows that there is sufficient justification to grant the certificate of lawfulness applied for by the applicant.

Location Plan (scale 1:1250)

